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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES, *et al.*

Plaintiffs,

v.

UNITED STATES OFFICE OF PERSONNEL  
MANAGEMENT, *et al.*,

Defendants.

Case No. 3:25-cv-1780-WHA

**DEFENDANTS' NOTICE OF FILING OF  
EVIDENCE**

The Hon. William H. Alsup

Defendants write to: (i) submit additional documentation and to (ii) identify materials of which the Court may take judicial notice, both in support of their legal arguments in advance of the Court's March 13, 2025 hearing. Previously, in support of their Opposition to Plaintiffs' Motion for a Temporary Restraining Order on February 26, 2025, *see* ECF No. 33, Defendants submitted the following materials:

- Office of Personnel Management's ("OPM") Guidance on Probationary Periods, Administrative Leave and Details, dated January 20, 2025. *See* Ex. 1 (previously ECF No. 37).
- An email dated February 14, 2025 from OPM to the Chief Human Capital Officers ("CHCO") council providing additional information to agencies. *See* Ex. 2 (previously ECF No. 37-1).
- A frequently asked questions ("FAQs") document issued by OPM on February 24, 2025, providing additional information on how agencies should evaluate probationary employees. *See* Ex. 3 (previously ECF No. 37-2).
- An email dated February 24, 2025 from OPM to CHCOs and Deputy CHCOs attaching the aforementioned FAQs document. *See* Ex. 4 (previously ECF No. 37-3).

Because these items were part of the now-withdrawn declaration of Acting OPM Administrator Charles Ezell, Defendants re-submit them as exhibits attached to this filing. Defendants will include all of them in the forthcoming administrative record in this matter.

Subsequently, on March 7, 2025, Defendants submitted in support of their opposition to Plaintiffs' motion for leave to file a Second Amended Complaint:

- OPM's revised guidance on March 4, 2025 clarifying that "OPM is not directing agencies to take any specific performance-based actions regarding probationary employees[,] and further clarifying that "[a]gencies have ultimate decision-making authority over, and responsibility for, such personnel actions." ECF No. 64-1; *see also* ECF No. 78.

1 And then in response to this Court's Second Request for Information, Defendants  
2 submitted on March 10, 2025:

- 3 • A template letter attached to a February 14, 2025 email sent by OPM to various  
4 CHCOs. ECF No. 87-1.

5 As a further part of their evidentiary presentation before this Court, Defendants now  
6 submit the following, additional documentary evidence in support of their arguments that OPM  
7 did not direct agencies to terminate probationary employees, which Defendants will include in  
8 the forthcoming administrative record prepared for this APA matter:

- 9 • A February 12, 2025 e-mail titled "[Action Due 2/13] Probationary Employee  
10 Actions" sent by OPM to Chiefs of Staff clarifying next steps following OPM's  
11 guidance, *see* Ex. 5, and attaching a template letter previously produced by  
12 Defendants, *see* ECF No. 87-1.

13 In addition, Defendants identify the following materials of which the Court may take  
14 judicial notice in support of their arguments that OPM did not direct agencies to terminate  
15 probationary employees:

- 16 • The President's Executive Order titled "Hiring Freeze," dated January 20, 2025,  
17 in which the President imposed a freeze on federal hiring; ordered the Office of  
18 Management and Budget to "submit a plan to reduce the size of the Federal  
19 Government's workforce through efficiency improvements and attrition"; and  
20 instructed that, "[i]n carrying out this memorandum, the heads of executive  
21 departments and agencies shall seek efficient use of existing personnel and funds  
22 to improve public services and the delivery of these services," *see* Ex. 6, *also*  
23 *available at* [https://www.whitehouse.gov/presidential-actions/2025/01/hiring-](https://www.whitehouse.gov/presidential-actions/2025/01/hiring-freeze)  
24 *freeze*.
- 25 • The President's Executive Order titled "Implementing The President's  
26 'Department of Government Efficiency' Workforce Optimization Initiative,"  
27 dated February 11, 2025, in which the President ordered that "Agency Heads shall  
28 promptly undertake preparations to initiate large-scale reductions in force (RIFs),

1 consistent with applicable law, and to separate from Federal service temporary  
2 employees and reemployed annuitants working in areas that will likely be subject  
3 to the RIFs,” *see* Ex. 7, *also available at*  
4 [https://www.whitehouse.gov/presidential-actions/2025/02/implementing-the-](https://www.whitehouse.gov/presidential-actions/2025/02/implementing-the-presidents-department-of-government-efficiency-workforce-optimization-initiative)  
5 [presidents-department-of-government-efficiency-workforce-optimization-](https://www.whitehouse.gov/presidential-actions/2025/02/implementing-the-presidents-department-of-government-efficiency-workforce-optimization-initiative)  
6 [initiative](https://www.whitehouse.gov/presidential-actions/2025/02/implementing-the-presidents-department-of-government-efficiency-workforce-optimization-initiative).

- 7 • A Fact Sheet published by the White House titled “Fact Sheet: President Donald  
8 J. Trump Works to Remake America’s Federal Workforce,” dated February 11,  
9 2025, indicating that “Agency Heads will coordinate and consult with DOGE to  
10 shrink the size of the federal workforce and limit hiring to essential positions”;  
11 that “Agencies will undertake plans for large-scale reductions in force and  
12 determine which agency components (or agencies themselves) may be eliminated  
13 or combined because their functions aren’t required by law”; that “President  
14 Donald J. Trump is committed to reducing the size and scope of the federal  
15 government”; and that “President Trump has made reforming the federal  
16 workforce a key priority for his second term.” *See* Ex. 8, *also available at*  
17 [https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-](https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-works-to-remake-americas-federal-workforce)  
18 [trump-works-to-remake-americas-federal-workforce](https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-works-to-remake-americas-federal-workforce).
- 19 • A February 13, 2025 statement from the Department of Veteran Affairs (“VA”),  
20 noting that VA’s terminations of probationary employees exempted employees  
21 “in mission-critical positions” and were “part of a government-wide Trump  
22 Administration effort to make agencies more efficient, effective and responsive to  
23 the American People,” and including the following statement from VA Secretary  
24 Doug Collins “This was a tough decision, but ultimately it’s the right call to better  
25 support the Veterans, families, caregivers, and survivors the department exists to  
26 serve.” *See* Ex. 9, *also available at* [https://news.va.gov/press-room/va-dismisses-](https://news.va.gov/press-room/va-dismisses-more-than-1000-employees)  
27 [more-than-1000-employees](https://news.va.gov/press-room/va-dismisses-more-than-1000-employees).

- 1 • A February 14, 2025 statement from the Department of Agriculture (“USDA”),  
2 explaining that “USDA is pursuing an aggressive plan to optimize its workforce  
3 by eliminating positions” as “[p]er the President’s directives.” *See* Ex. 10, *also*  
4 *available at* [https://www.usda.gov/about-usda/news/press-](https://www.usda.gov/about-usda/news/press-releases/2025/02/14/secretary-rollins-takes-bold-action-stop-wasteful-spending-and-optimize-usda-better-serve-american)  
5 [releases/2025/02/14/secretary-rollins-takes-bold-action-stop-wasteful-spending-](https://www.usda.gov/about-usda/news/press-releases/2025/02/14/secretary-rollins-takes-bold-action-stop-wasteful-spending-and-optimize-usda-better-serve-american)  
6 [and-optimize-usda-better-serve-american](https://www.usda.gov/about-usda/news/press-releases/2025/02/14/secretary-rollins-takes-bold-action-stop-wasteful-spending-and-optimize-usda-better-serve-american).
- 7 • A February 21, 2025 statement from the Department of Defense titled “DoD  
8 Probationary Workforce Statement,” indicating that “the Department of Defense  
9 is re-evaluating our probationary workforce, consistent with the President’s  
10 initiative to reform the Federal workforce to maximize efficiency and  
11 productivity,” and that “This re-evaluation of probationary employees is being  
12 done across government, not just at the Defense Department, but we believe in the  
13 goals of the program, and our leaders are carrying out that review carefully and  
14 smartly.” *See* Ex. 11, *also available at*  
15 [https://www.defense.gov/News/Releases/Release/Article/4074278/dod-](https://www.defense.gov/News/Releases/Release/Article/4074278/dod-probationary-workforce-statement)  
16 [probationary-workforce-statement](https://www.defense.gov/News/Releases/Release/Article/4074278/dod-probationary-workforce-statement).
- 17 • A March 11, 2025 statement from the Department of Education announcing a  
18 reduction in force, to be conducted in accordance with separate legal requirements  
19 applicable to reductions in force, “[a]s part of the Department of Education’s final  
20 mission.” Ex. 12, *also available at* [https://www.ed.gov/about/news/press-](https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force)  
21 [release/us-department-of-education-initiates-reduction-force](https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force).

22 Defendants intend to rest on this documentary evidence and their legal arguments at the  
23 upcoming hearing. Defendants submit that further discovery and evidentiary issues in this APA  
24 case should be taken up, if necessary, following Defendants’ preparation of an administrative  
25 record. *See* ECF No. 97 at 1-2.

1 Dated: March 12, 2025

Respectfully submitted,

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